

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IAN T. PETHERBRIDGE

Appeal No. 2002-1423
Application No. 09/531,839

ON BRIEF

Before COHEN, PATE, and MCQUADE, Administrative Patent Judges.
PATE, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 11. These are the only claims in the application.

The claimed invention is directed to a respirator for directing a forced flow of filtered air to a wearer. The air flow passage of the respirator has a flow-detecting orifice which generates suction to move a pressure-responsive indicator. If air flow through the passage falls below a predetermined value, the pressure responsive indicator signals an alert to the wearer.

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The claimed subject matter may be further understood with reference to the appealed claims appended to appellant's brief.

The references of record relied upon by the examiner as evidence of anticipation and obviousness are:

Dehart et al. (Dehart)	4,372,170	Feb. 8, 1983
Hilton	GB 2,032,284 A	May 8, 1980
Church	EP 602,847 A1	Jun. 22, 1994

THE REJECTIONS

Claims 1 through 4, 8, and 9 stand rejected under 35 U.S.C. § 102 as anticipated by Church.

Claims 5 through 7 stand rejected under 35 U.S.C. § 103 as unpatentable over Church in view of Dehart.

Claims 10 and 11 stand rejected under 35 U.S.C. § 103 as unpatentable over Church in view of Hilton.

For the views of the appellant and the examiner with respect to the rejections on appeal, reference is made to the appeal brief and reply brief on the part of appellant and the examiner's answer on the part of the examiner.

OPINION

We have carefully reviewed the rejections on appeal in light of the arguments of the appellant and the examiner. As a result of this review, we have reached the determination that the

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applied prior art does not establish the lack of novelty or prima facie obviousness of the claimed subject matter. Accordingly, the rejections of all claims on appeal are reversed. Our reasons follow.

Church discloses a respirator for positive pressure forced air supply to the breathing zone of the wearer comprising a headpiece that forms the breathing zone. An air flow passage is provided through which the air passes before entering the breathing zone. The air flow passage has a short cylinder 42 with a restricted orifice 44 at its downstream end. Col. 2, lines 34-43. The orifice serves to increase the pressure in cylinder 42. Col. 2, line 54. This increased pressure is detected by aperture 49 and supply line 48. The increased pressure is sufficient to lift float 54 off of its stop and signal that the requisite amount of air is being supplied.

Claim 1 on appeal requires that suction be generated at the flow detecting orifice. The examiner has stated that Church discloses "a pressure differential across the orifice implicit in which is a suction force across the orifice." We find ourselves in agreement with appellant that suction is not the manner in which aperture 44 of Church operates. In fact, Church works by increasing the pressure in cylinder 42 to send a higher pressure

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signal to supply line 48. Accordingly, Church does not anticipate appellant's claim 1. We have carefully reviewed the other references cited but find therein no disclosure that would ameliorate the shortcomings of Church and render the claimed subject matter prima facie obvious.

The rejections on appeal are reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
WILLIAM F. PATE, III)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
JOHN P. MCQUADE)	
Administrative Patent Judge)	

WFP/LBG

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